IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1027 OF 1994

Kamrunissa Shaikh Ibrahim ...Applicant

Vs.

The State of Maharashtra ...Respondents

Mrs. V.S. Deshpande for the Applicant.
Shri.K.V. Saste, A.P.P. for the Respondents.

CORAM : A.S.OKA, J.
DATED : JULY 21, 2005.

P.C.:

1. Heard learned Counsel appearing for the Applicant and the learned A.P.P. for the State. Office noting shows that the Respondent NO.2 is duly served. This matter is taken up for hearing after the learned Registrar (Judicial I) clarified that final hearing of Petitions where prayer is for quashing the complaint or order issuing process pertains to the assignment of this court.

2. The Respondent No.2 filed a private complaint against the Applicant alleging the commission of offence under sections 323, 504 and 506(ii) of the Indian Penal Code. The learned Counsel for the Petitioner submitted that the complaint itself discloses that the Applicant was the second wife of the father of the Respondent No.2-original complainant. The learned Counsel for the Petitioner has placed reliance on the document annexed as Exhibit 'A' which is issued under seal of Kazi which evidences solemnisation of the marriages between the Applicant and the father of the original complainant. The

reliance is placed on memorandum of marriage registered under the provisions of Bombay Registration of Marriage Act, 1953. Reliance is also placed on Will allegedly executed by the father of the Resondent No.2 which has been duly registered under the Indian Registration Act, 1908. The learned Counsel also pointed out various complaints filed by the Applicant against the Respondent No.2 and submitted that on plain reading of the complaint, no case was made out for issuing of process. The learned Counsel has taken me through the copy of the complaint which is annexed to the Application. I have heard the learned A.P.P. for the State.

3. I have considered the submissions. In the third paragraph of the complaint the Respondent No.2 has asserted that the Applicant is claiming to be the second wife of his deceased father. The only relevant assertions are in the last paragraphs of the complaint. In the last paragraph of the complaint, it is alleged that the Applicant brought three unknown persons to the premises in which the Respondent No.2 is residing. In the said paragraph there is vague allegation that the Applicant abused the Respondent No.2 in filthy language. Only material allegation in the said paragraph is that the Applicant allegedly slapped the Respondent No.2. On plain reading of the complaint, it is apparent that no case is made out for invoking sections 504 and 506(ii) of the Indian Penal

Code. Only on the basis of one sentence in the last paragraph, it is difficult to imagine how case is made out of commission of offence under section 323 of the Indian Penal Code. In my view, on plain reading of the complaint, no case was made out for issuing process against the Applicant. This is a fit case where power under Section 482 of the Code of Criminal Procedure, 1973 should be exercised. Accordingly, Application is allowed in terms of prayer clause (a).

JUDGE